



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 04 2008

REPLY TO THE ATTENTION OF:

(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Gina Nicholson  
Health, Safety and Environmental Manager  
ConocoPhillips Company  
Wood River Refinery  
900 South Central Avenue  
Roxana, Illinois 62084

Dear Ms. Nicholson:

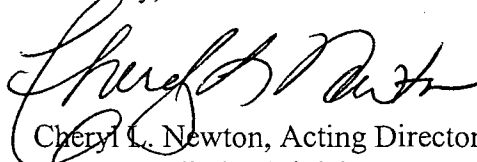
The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to ConocoPhillips Company (CP or you) under Section 113(a)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1). We find that you are violating the Prevention of Significant Deterioration regulations and the non-attainment New Source Review requirements in the Illinois State Implementation Plan.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.

We are offering you the opportunity to request a conference with us about the violations alleged in the NOV. A conference should be requested within 10 days following receipt of this notice. A conference should be held within 30 days following receipt of this notice. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

The EPA contact in this matter is Kathryn Siegel. You may call her at (312) 353-1377 if you wish to request a conference. EPA hopes that this NOV will encourage CP Wood River's compliance with the requirements of the CAA.

Sincerely,

  
Cheryl L. Newton, Acting Director  
Air and Radiation Division

Enclosure

cc: Ray Pilapil, Manager  
Compliance and Enforcement Section  
Illinois Environmental Protection Agency

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

ConocoPhillips Company  
Roxana, Illinois

Proceedings Pursuant to  
the Clean Air Act,  
42 U.S.C. §§ 7401 et seq.

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**NOTICE OF VIOLATION**

**EPA-5-08-IL-25**

**NOTICE OF VIOLATION**

The U.S. Environmental Protection Agency is issuing this Notice of Violation (NOV) under Section 113(a)(1) of the Clean Air Act (CAA or Act), 42 U.S.C. § 7413(a)(1). EPA finds that ConocoPhillips Company (CP) is violating the Prevention of Significant Deterioration regulations and the non-attainment New Source Review requirements in the Illinois State Implementation Plan, at its Wood River refinery, as follows:

**Regulatory Background**

1. The following provisions of the prevention of significant (PSD) regulations are relevant to this NOV:

Attainment PSD

- a. Part C of the Act, 42 U.S.C. §§ 7470-7479, requires the Administrator to promulgate regulations to prevent the significant deterioration of air quality in areas designated as attainment or unclassifiable in accordance with Section 107(d) of the Act, 42 U.S.C. § 7407(d). In accordance with this, the Administrator promulgated regulations at 40 C.F.R. § 51.166 setting forth state implementation plan (SIP) approval requirements for the prevention of significant deterioration of air quality.
- b. Section 161 of the Act, 42 U.S.C. § 7471, and 40 C.F.R. § 51.166(a)(1) require that the States submit SIPs containing emission limitations and other measures necessary to prevent the significant deterioration of air quality.
- c. On June 19, 1978, EPA promulgated PSD regulations pursuant to Part C of the Act. (45 Fed. Reg. 26403). EPA revised the PSD regulations on August 7, 1980 (45 Fed. Reg. 52676), codified at 40 C.F.R. § 52.21 et seq. On December 31,

2002, EPA published revisions to the PSD and non-attainment new source review (NSR) regulations in 40 C.F.R. Parts 51 and 52. (67 Fed. Reg. 80186). These revisions are commonly referred to as "NSR Reform."

- d. The State of Illinois has not promulgated its own PSD regulations and, therefore, has not satisfied the requirements of Sections 160-165 of the Act in its SIP. The provisions of 40 C.F.R. § 52.21, except paragraph 40 C.F.R. § 52.21(a)(1), are therefore incorporated, and made a part of, the applicable Implementation Plan for the State of Illinois at 40 C.F.R. § 52.738(b). 45 Fed. Reg. 52676, at 52741.
- e. 40 C.F.R. § 52.21(b)(1)(i)(b) defines "major stationary source" as any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Act.
- f. 40 C.F.R. § 52.21(b)(2)(i) defines "major modification" as any physical change or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any air pollutant subject to regulation under the Act.
- g. 40 C.F.R. § 52.21(b)(11) defines "begin actual construction," in general, as the initiation of physical onsite construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework, and construction of permanent storage structures.
- h. 40 C.F.R. § 52.21(a)(2)(iii) prohibits the actual construction of a major stationary source or modification without a permit which states that the major stationary source or modification will meet the requirements of 40 C.F.R. § 52.21(j) through (r).
- i. 40 C.F.R. § 52.21(r) states, among other things, that any owner or operator of a source subject to PSD regulations who constructs or operates a source or modification without applying for and receiving approval under the PSD regulations is subject to an enforcement action.
- j. 40 C.F.R. § 52.23 states, among other things, that failure to comply with any provision of 40 C.F.R. Part 52, or with any approved regulatory provision of a SIP, shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Act.

2. The following provisions of the Illinois SIP are relevant to this NOV:

Non-attainment NSR

- a. On December 17, 1992, EPA approved the incorporation of the Illinois nonattainment NSR rules, 35 Illinois Administrative Code (IAC) Part 203, into the Illinois SIP. (57 Fed. Reg. 59928). The NSR rules became effective on February 16, 1993. On September 27, 1995, EPA approved a revision to the Illinois nonattainment NSR rule as part of the SIP. (60 Fed. Reg. 49778). The revision became effective on October 27, 1995.
- b. 35 IAC § 203.206(b)(1) defines “major stationary source,” in part, for an area designated as nonattainment for ozone, as a stationary source which emits or has the potential to emit volatile organic material in an amount equal to or greater 100 tons per year (tpy) in an area classified as marginal or moderate nonattainment for ozone.
- c. 35 IAC § 203.207(a) defines “major modification” as a physical change, or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant for which the area is designated a nonattainment area.
- d. 35 IAC § 203.207(b) provides that any net emissions increase that is significant for volatile organic material or nitrogen oxides shall be considered significant for ozone.
- e. 35 IAC § 203.203(a) states that a construction permit is required prior to actual construction of a major new source or major modification.
- f. 35 IAC § 203.103 defines “actual construction” as initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and erection of permanent storage structures.
- g. 35 IAC § 203.201 states that in any nonattainment area, no person shall cause or allow the construction of a new major stationary source or major modification that is major for the pollutant for which the area is designated a nonattainment area, except as in compliance with 35 IAC Part 203 for that pollutant. In areas designated nonattainment for ozone, this prohibition shall apply to new major stationary sources or major modifications of sources that emit volatile organic materials or nitrogen oxides.
- h. 40 C.F.R. § 52.23 states, among other things, that failure to comply with any approved regulatory provision of a SIP, shall render the person or governmental

entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Act.

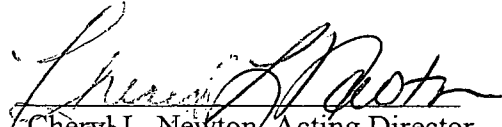
### **Explanation of Violations**

1. On May 15, 2006, CP applied to the Illinois Environmental Protection Agency (IEPA) for a permit to authorize the construction of the Coker and Refinery Expansion (CORE) Project at its Wood River refinery, located in Madison County, Illinois. Madison County has been designated nonattainment for ozone and particulate matter less than 2.5 micrometers in diameter under the Act.
2. On July 19, 2007, IEPA issued the permit to CP. Under EPA's procedural regulations governing PSD permit challenges, a PSD permit issued by a delegated state is effective 30 days after the service of notice of the decision – unless review is requested on the permit under 40 CFR § 124.19. *See* 40 CFR § 124.15(b).
3. On August 21, 2007, several environmental groups petitioned the Environmental Appeals Board (EAB) to review the permit under 40 CFR § 124.19.
4. On June 2, 2008, the EAB ruled on the challenge and remanded the permit. A remanded permit does not become effective unless and until the permitting agency satisfactorily addresses the defects identified in the decision, reissues the permit and Agency review procedures have been exhausted. *See* 40 CFR § 124.19(f). The State reissued the remanded permit on August 5, 2008.
5. CP's Wood River refinery is a major source, as defined by 40 C.F.R. § 52.21(b)(1)(i)(b) and 35 IAC § 203.206(b)(1). The CORE Project constitutes a major modification, as defined by 40 C.F.R. § 52.21(b)(2)(i) and 35 IAC § 203.207(a).
6. On July 9, 2008, representatives from EPA inspected the site where CP Wood River is proposing to construct a new coker unit as part of the CORE Project. EPA observed certain activities at the site demonstrating that CP had begun actual construction prior to obtaining an effective permit. These activities included, but were not limited to, excavation and laying gravel.
7. The above listed activities are permanent in nature, are an integral part of the CORE Project, have significantly altered the site, and were costly. Consequently, these activities are within the meaning of "begin actual construction," as defined at 40 C.F.R. § 52.21(b)(11) and "actual construction," as defined at 35 IAC § 203.103.
8. Based on the above, CP violated, and continues to violate, 40 C.F.R. § 52.21(a)(2)(iii), 35 IAC § 203.203(a) and 35 IAC § 203.201.

## Environmental Impact of Violations

1. Exposure to the criteria pollutants is associated with numerous effects on human health, including increased respiratory symptoms, hospitalization for heart or lung diseases, and even premature death. The criteria pollutants can also have detrimental effects on plants and ecosystems.

9/4/08  
Date

  
Cheryl L. Newton, Acting Director  
Air and Radiation Division

## CERTIFICATE OF MAILING


I, Betty Williams, certify that I sent Notice of Violation, No. EPA-5-08-IL-25, by Certified Mail, Return Receipt Requested, to:

Gina Nicholson  
Health, Safety and Environmental Manager  
ConocoPhillips Company  
Wood River Refinery  
900 South Central Avenue  
Roxana, Illinois 62084

I also certify that I sent copies of the Finding of Violation and Notice of Violation by first class mail to:

Ray Pilapil, Manager  
Compliance and Enforcement Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, IL 62794

on the 5<sup>th</sup> day of September, 2008.

  
Betty Williams, Secretary  
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0186 0941